

Summary of Proposed Local Rule 4.4F

The proposed amendments to the court's local rule are summarized below. Immediately following the summary, you will find the full text of the proposed changes with deletions noted in ~~striketrough~~ and proposed additions noted in underline.

☐ **RULE 4.4 AUTHORITY OF CASE MANAGEMENT JUDGE**

- The proposed amendment to **Rule 4.4F – Law and Motion**, articulates and clarifies the relationship between motions heard in the Law and Motion Department, Department 31, and the case management departments.
- The proposed amendments to **Rule 4.4H – Standing Pre-trial Orders**, relocate and revise the substance of the existing rule to revised Rule 4.6; clarify and expand case types; detail the discretion of the trial judge and the case management judge to exempt or modify standing orders; clarify the discretion of the trial judge to impose consequences in the event of non-compliance; delete obsolete and redundant provisions of existing Rule 4.4H and related rules.
- The proposed amendment redesignates **Rule 4.4I – Referral to Single Assignment Department**, to Rule 4.4H.
- The proposed amendment redesignates **Rule 4.4J – Sanctions and Orders to Show Cause**, to Rule 4.4I.

DIVISION II: CIVIL CASES

CHAPTER 4 – GENERAL POLICIES AND PROCEDURES

RULE 4.4 AUTHORITY OF CASE MANAGEMENT JUDGE

In addition to the duties and responsibilities expressly set forth in these rules and California Rules of Court, Rule 208 through 210, and 212, the assigned case management judge shall have the following authority:

A. Submission of Pleadings or Written Legal Argument: In the discretion of the case management judge, counsel and self-represented parties may be required to provide legal memoranda regarding factual and legal issues.

B. Settlement: The case management judge may determine whether an early settlement conference should be scheduled and, if so, on what date. The judge shall set forth in the case management order all persons – including counsel, parties, adjusters, corporate officers, or other persons with authority to negotiate and enter into a settlement in good faith – who are required to attend the early settlement conference, or may excuse any such attendance as appropriate. At any case management conference in which settlement is discussed, each plaintiff or party seeking affirmative relief or recovery shall be prepared to make a minimum demand, and each defendant shall come to the conference prepared to make his or her highest offer. Counsel attending any case management conference at which settlement is to be discussed shall be thoroughly familiar with the case. To promote early settlement, all attorneys or self-represented parties ordered to attend the early settlement conference shall participate in a good faith attempt to settle the case or stipulate to as many facts or issues as possible. Any counsel or party ordered to attend a settlement conference who fails to so attend, or who attends but fails to participate in the conference in good faith, may be subject to sanctions, as appropriate, in the amount of court costs, actual expenses, and attorneys' fees incurred in preparing for and attending the settlement conference.

C. Referral to Referee or Special Master: At the request of the parties pursuant to Code of Civil Procedure section 638, or upon a party's or the Court's own motion pursuant to Code of Civil Procedure section 639, the case management judge may appoint a referee for settlement, disposition, or for any other purpose as permitted by statute. All orders of reference made pursuant to this section shall be by a written order that complies in all respects with the rules and procedures set forth in California Rules of Court, Rules 244.1 and 244.2, and Code of Civil Procedure sections 638 through 645.1.

D. Judicial or Contractual Arbitration and ADR: At the request of counsel or any self-represented party, or on his/her own motion pursuant to California Rules of Court, Rule 212, the case management judge may refer the case to judicial or contractual arbitration, or to some other ADR process, and may set the date by which arbitration or ADR process shall be completed and an award filed with the Court.

E. Discovery: At the request of counsel or any self-represented party, or on his/her own motion, the case management judge may issue orders scheduling, requiring, opening, or limiting

discovery, as necessary, to assist settlement and/or trial readiness of the case. In addition, as may be necessary to assist settlement and/or prepare the case for trial, the case management judge may:

- (1) order and supervise a plan for discovery;
- (2) regulate the timing, scope, issues and deadlines for completing discovery;
- (3) schedule depositions of parties, witnesses, or experts;
- (4) issue orders relating to the scheduling, designation, and exchange of expert witness information under Code of Civil Procedure section 2034; and
- (5) make appropriate orders limiting the number of experts called at trial in any case.

F. Law and Motion:

(1) Authority to Schedule Deadlines for Law and Motion Proceedings:

Except as required by statute, the case management judge may schedule the date(s) by which law and motion proceedings in the case shall be completed, ~~and may hear and determine all law and motion matters in the case, including discovery proceedings, which would ordinarily be filed in the law and motion department pursuant to Chapter 5 of these rules, infra, if the parties so stipulate and the case management judge so agrees. Absent a written stipulation of the parties and the consent of the case management judge, and except as set forth below, all law and motion matters shall be filed in the appropriate law and motion department in accordance with the procedures set forth in Chapter 5 of these rules.~~

(2) (2) Authority to Hear and Determine Specified Motions and Applications Upon Stipulation: The case management judge ~~shall~~ may hear and decide ~~the following any~~ law and motion matters in cases assigned to that case management department, including discovery proceedings, which would ordinarily be noticed in the law and motion department if the parties so stipulate and the case management judge agrees. Absent a written stipulation of the parties and the consent of the case management judge, and except as set forth below, all law and motion matters shall be noticed for hearing in the appropriate law and motion department in accordance with the procedures set forth in Chapter 5 of these rules.

(3) Motions and Applications that Must Be Noticed in the Case Management Department: The following law and motion matters, including any request for an order shortening time that is made in connection with them, must be noticed for hearing in the case management department:

- (a) Motions to set, advance, continue or vacate a trial date, ~~pursuant to the provisions of Rule 4.5.1;~~
- (b) Motions to continue any Case Management Conference date, arbitration completion date or ADR completion date;
- (c) Motions to Reclassify;
- (d) Motions to compel enforcement of settlement agreement, motions to confirm good faith settlement, and motions or petitions to approve settlement on behalf of a minor or ~~incompetent~~ person with a disability;
- (e) Motions to contest a good faith settlement agreement;
- (f) Motions to consolidate (for all or limited purposes), bifurcate or sever actions, issues or causes of action;

(g) Motions to limit the number of expert witnesses and motions to reopen discovery;

(h) ~~Motions to compel contractual arbitration pursuant to Code of Civil Procedure section 1281.2.~~

~~(i) Ex parte applications~~ for extension of time to serve pleading.

(4) **Noticing a Motion in the Law and Motion Department When Ancillary to Another Motion Noticed in That Department; Authority of Law and Motion Judge to Grant Relief:** Notwithstanding the provisions of Rule 4.4.F.(3), any matter designated as being required to be heard in the case management department may be noticed for hearing and heard in the law and motion department if it is ancillary to a motion required to be filed in that department. Nothing in this rule is intended to preclude a judge in a law and motion department from issuing an order or granting the relief that could be the subject of a motion or application noted in Rule 4.4.F.(3).

G. Mandatory Settlement Conference: In its discretion, or at the request of any party, the case management judge may set a mandatory settlement conference pursuant to California Rules of Court, Rule 222. The case management order setting the mandatory settlement conference shall specify the parties (counsel, parties, and persons with full authority to settle the case) who shall attend the conference, and shall direct that each party submit a mandatory settlement conference statement satisfying all requirements of California Rules of Court, Rule 222(c).

H. ~~Standing Pre-Trial Orders For Civil Cases:~~ (Relocated to Rule 4.6)

~~(1) Discovery completion and disclosure is governed by appropriate statutory provision unless otherwise agreed between the parties by written stipulation or further order of the court.~~

~~(2) Each counsel, and any self-represented party, shall prepare an index of all exhibits to be offered at trial, other than those to be used for impeachment or rebuttal, for submission in triplicate to the trial judge at the first appearance in the trial department. The index shall include a brief description of the exhibit. These indices shall be exchanged by counsel, and any self-represented party, at least three (3) court days before trial. Formal objections to exhibits shall be in the form of a Motion in Limine pursuant to paragraph (5).~~

~~(3) Originals of all depositions to be used at trial shall be lodged with the courtroom clerk at the first appearance in the trial department. Counsel, and any self-represented party, shall meet and confer to edit depositions as necessary and make a good faith effort to resolve admissibility issues related to depositions.~~

~~If depositions, requests for admissions, interrogatory responses, or any other discovery response, are to be used in lieu of live testimony at trial, the proponent shall submit the excerpts to be used to opposing counsel, or any self-represented party, at least three (3) court days before trial. Legal grounds for objections to such excerpts shall be raised by Motion in Limine pursuant to paragraph (5) of this rule. Counsel and any self-represented party, are also ordered to comply with the provisions of CCP Section 2025(1) and (u) with respect to the anticipated use of videotaped depositions.~~

~~(4) The proponent shall prepare written transcripts of any video or audio presentations intended to be used at trial pursuant to CRC 203.5, which shall be submitted to opposing counsel, or any self-represented party, at least three (3) court days before trial. Objections to~~

~~said video presentation and/or transcript shall be raised in a Motion in Limine pursuant to paragraph (5) of this Rule.~~

~~(5) ALL Motions in Limine shall be in writing and personally served upon opposing counsel or any self-represented party one (1) court day before trial, and filed with the courtroom clerk at the first appearance in the trial department.~~

~~Motions in Limine not served in compliance with this Rule may not be heard.~~

~~(6) A list of all witnesses (expert and non-expert) to be called at trial, other than those to be called solely for impeachment or in rebuttal, shall be personally served upon opposing counsel, or any self-represented party, three (3) court days before trial and presented in triplicate to the trial judge at the first appearance in the trial department.~~

~~Trial will not be delayed to accommodate witness scheduling problems. In the absence of extraordinary circumstances, a party will be deemed to have concluded the presentation of his/her case once the examination of available witnesses is concluded.~~

~~Witnesses not listed are subject to exclusion at trial.~~

~~(7) If medical records are involved, the parties are to delete any information which counsel, or any self-represented party, agree should not come into evidence, including insurance information, so that such information is not received by the jury. The proponent shall then prepare clean copies of the records for submission into evidence. Any disagreements or legal grounds for objection to said records shall be set forth in a Motion in Limine filed pursuant to paragraph (5) of this Rule.~~

~~(8) Each counsel, and any self-represented party, shall prepare a brief non-argumentative summary of the factual nature of the case and a brief statement regarding alleged injuries and/or damages for submission to the trial judge at the first appearance in the trial department. The purpose of the summary is to provide an overview of the case for the jury. Each counsel and any self-represented party shall also prepare a proposed form of jury instruction regarding the burden(s) of proof involved in the case. Copies of the summary and each party's proposed form of instruction shall be personally served upon opposing counsel, or any self-represented party, three (3) court days before trial and presented in triplicate to the trial judge at the first appearance in the trial department.~~

~~(9) Each counsel, and any self-represented party, shall personally serve upon opposing counsel, or any self-represented party, three (3) court days before trial and submit a set of proposed jury instructions to the trial judge at the first appearance in the trial department. The submission of a list of jury instructions is NOT acceptable. The full text of the proposed instructions must be provided. Any proposed instruction which is not taken verbatim from jury instructions approved by the Judicial Council of California shall include citations to the authorities upon which it is based.~~

~~(10) If the use of a special verdict form is anticipated, each counsel, and any self-represented party, shall prepare the form of special verdict, personally serve it upon opposing counsel, or any self-represented party, three (3) court days before trial and submit it to the trial judge at the first appearance in the trial department.~~

~~(11) Examination of prospective jurors shall be conducted pursuant to Code of Civil Procedure Section 222.5, California Rules of Court, Appendix, Division 1, Standards of Judicial Administration, Section 8, and California Rule of Court 228. Supplemental voir dire questions should be personally served upon opposing counsel or any self-represented party, three (3) court days before trial and submitted to the trial judge at the first appearance in the trial department.~~

~~(12) If this case involves technical or unusual vocabulary, a special glossary, in duplicate, shall be submitted to the courtroom clerk at the first appearance in the trial department.~~

I. Referral to Single Assignment Department: Upon the motion of any party, or on the Court's own motion, the case management judge may refer any case to the Presiding Judge for consideration of assignment of the case to a single judge, for all purposes, pursuant to California Rules of Court, Rule 213.

J. Sanctions and Orders to Show Cause: Upon the failure of any party, including the party's counsel, to comply with any provision of these rules, or the California Rules of Court, the case management judge shall have the authority to issue orders to show cause, and/or to impose monetary or any other appropriate sanctions to the extent permitted by statute or case law.

(Effective 5/19/98; Amended 7/1/99, 1/1/00, 7/1/02, 1/1/04, ~~and~~ 7/1/05 and 1/1/06)